

881, as amended, which is classified generally to 2B (§78a et seq.) of this title. For complete classification of this Act to the Code, see section 78a of this title and Tables.

The Securities Act of 1933, referred to in subsec. (b), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of this title. For complete classification of this Act to the Code, see section 77a of this title and Tables.

CROSS REFERENCES

Trust Indenture Act of 1939—

Jurisdiction under this section as affected by, see section 77zzz of this title.

Rights and remedies under, see section 77www of this title.

§ 79q. Officers and directors

(a) Statement of ownership of securities; duty to file

Every person who is an officer or director of a registered holding company shall file with the Commission in such form as the Commission shall prescribe (1) at the time of the registration of such holding company, or within ten days after such person becomes an officer or director, a statement of the securities of such registered holding company or any subsidiary company thereof of which he is, directly or indirectly, the beneficial owner, and (2) within ten days after the close of each calendar month thereafter, if there has been any change in such ownership during such month, a statement of such ownership as of the close of such calendar month and of the changes in such ownership that have occurred during such calendar month.

(b) Limitation on profits in purchase and sale of securities

For the purpose of preventing the unfair use of information which may have been obtained by any such officer or director by reason of his relationship to such registered holding company or any subsidiary company thereof, any profit realized by any such officer or director from any purchase and sale, or any sale and purchase, of any security of such registered holding company or any subsidiary company thereof within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the holding company or subsidiary company in respect of the security of which such profit was realized, irrespective of any intention on the part of such officer or director in entering into such transaction to hold the security purchased or not to repurchase the security sold for a period of more than six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company entitled thereto or by the owner of any security of such company in the name and in the behalf of such company if such company shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This subsection shall not cover any transaction where such person was not an officer or director at the times of the purchase and

sale, or the sale and purchase, of the security involved, or any transaction or transactions which the Commission by rules and regulations may, as necessary or appropriate in the public interest or for the protection of investors or consumers, exempt as not comprehended within the purpose of this subsection. Nothing in this subsection shall be construed to give a remedy in the case of any transaction in respect of which a remedy is given under subsection (b) of section 78p of this title.

(c) Officers or representatives of banking institutions disqualified to serve as officers or directors

After one year from August 26, 1935, no registered holding company or any subsidiary company thereof shall have, as an officer or director thereof, any executive officer, director, partner, appointee, or representative of any bank, trust company, investment banker, or banking association or firm, or any executive officer, director, partner, appointee, or representative of any corporation a majority of whose stock, having the unrestricted right to vote for the election of directors, is owned by any bank, trust company, investment banker, or banking association or firm, except in such cases as rules and regulations prescribed by the Commission may permit as not adversely affecting the public interest or the interest of investors or consumers.

(Aug. 26, 1935, ch. 687, title I, §17, 49 Stat. 830.)

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 79p of this title.

§ 79r. Investigations, injunctions, and enforcement of law

(a) Investigations to determine violations, aid in enforcement and as basis for recommendations

The Commission, in its discretion, may investigate any facts, conditions, practices, or matters which it may deem necessary or appropriate to determine whether any person has violated or is about to violate any provision of this chapter or any rule or regulation thereunder, or to aid in the enforcement of the provisions of this chapter, in the prescribing of rules and regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this chapter relates. The Commission may require or permit any person to file with it a statement in writing, under oath or otherwise as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of investigation. The Commission, in its discretion, may publish, or make available to State commissions, information concerning any such subject.

(b) Investigation of business, financial condition, etc., of companies

The Commission upon its own motion or at the request of a State commission may investigate, or obtain any information regarding the business, financial condition, or practices of any registered holding company or subsidiary company thereof or facts, conditions, practices, or matters affecting the relations between any such company and any other company or companies in the same holding-company system.

(c) Administering oaths; subpoenas; examining witnesses

For the purpose of any investigation or any other proceeding under this chapter, any member of the Commission, or any officer thereof designated by it, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in any State or in any Territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

(d) Court aid to compel giving testimony; penalty for refusal to testify

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. And such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in his or its power so to do, in obedience to the subpoena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or both.

(e) Injunctions to restrain violations; prosecutions

Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this chapter, or of any rule, regulation, or order thereunder, it may in its discretion bring an ac-

tion in the proper district court of the United States or the United States courts of any Territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices and to enforce compliance with this chapter or any rule, regulation, or order thereunder, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who, in his discretion, may institute the appropriate criminal proceedings under this chapter.

(f) Mandamus to compel compliance with law

Upon application of the Commission, the district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder.

(Aug. 26, 1935, ch. 687, title I, § 18, 49 Stat. 831; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, § 32(b), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107; Oct. 15, 1970, Pub. L. 91-452, title II, § 214, 84 Stat. 929; Dec. 4, 1987, Pub. L. 100-181, title IV, § 402, 101 Stat. 1259.)

CODIFICATION

As originally enacted subsecs. (e) and (f) contained references to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted "the district court of the United States for the District of Columbia" for "the Supreme Court of the District of Columbia". Pub. L. 100-181 struck out reference to the district court of the United States for the District of Columbia. Previously, act June 25, 1948, as amended by act May 24, 1949, had substituted "United States District Court for the District of Columbia" for "district court of the United States for the District of Columbia", but such words had been editorially eliminated as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which provides that "There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of Title 28 which provides that "the District of Columbia constitutes one judicial district".

AMENDMENTS

1987—Subsecs. (e) to (g). Pub. L. 100-181 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and, in each, struck out "the district court of the United States for the District of Columbia," after "district courts of the United States". See Codification note above.

1970—Subsec. (e). Pub. L. 91-452 struck out subsec. (e) which related to immunity from prosecution of any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

SAVINGS PROVISION

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this sec-

tion by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

FEDERAL RULES OF APPELLATE PROCEDURE

Injunction pending appeal, see rule 8, Title 28, Appendix, Judiciary and Judicial Procedure.

Review and enforcement of orders of administrative agencies, boards, commissions, and officers, see rule 15 et seq.

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

Mandamus as abolished but relief yet available by appropriate action or motion under rules, see rule 81.

Subpoena, see rule 45.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal contempt, see rule 42, Title 18, Appendix, Crimes and Criminal Procedure.

CROSS REFERENCES

Action to enjoin violations and institution of criminal proceedings under—

Investment Advisers Act of 1940, see section 80b-9 of this title.

Investment Company Act of 1940, see section 80a-41 of this title.

Securities Act of 1933, see section 77t of this title. Securities Exchange Act of 1934, see section 78u of this title.

Trust Indenture Act of 1939, see section 77uuu of this title.

Administration of oaths, etc., under—

Investment Advisers Act of 1940, see section 80b-9 of this title.

Investment Company Act of 1940, see section 80a-41 of this title.

Securities Act of 1933, see section 77s of this title. Securities Exchange Act of 1934, see section 78u of this title.

Trust Indenture Act of 1939, see section 77uuu of this title.

Attendance of witnesses and production of documents, judicial enforcement of orders under—

Investment Advisers Act of 1940, see section 80b-9 of this title.

Investment Company Act of 1940, see section 80a-41 of this title.

Securities Act of 1933, see section 77v of this title. Securities Exchange Act of 1934, see section 78u of this title.

Trust Indenture Act of 1939, see section 77uuu of this title.

Contempt proceedings, see sections 401, 402, 3285, and 3691 of Title 18, Crimes and Criminal Procedure.

Immunity of witnesses, see section 6001 et seq. of Title 18.

Investigation of facts by Commission under—

Investment Advisers Act of 1940, see section 80b-9 of this title.

Investment Company Act of 1940, see section 80a-41 of this title.

Securities Act of 1933, see section 77t of this title. Securities Exchange Act of 1934, see section 78u of this title.

Trust Indenture Act of 1939, see section 77uuu of this title.

Issuance of mandamus under—

Securities Act of 1933, see section 77t of this title. Securities Exchange Act of 1934, see section 78u of this title.

Limitations on operations of holding company systems, enforcement of orders, see section 79k of this title.

Misleading statements, liability for, see section 79p of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 78u, 79k of this title.

§ 79s. Hearings before Commission

Hearings may be public and may be held before the Commission, any member or members thereof, or any officer or officers of the Commission designated by it, and appropriate records thereof shall be kept. In any proceeding before the Commission, the Commission, in accordance with such rules and regulations as it may prescribe, shall admit as a party any interested State, State commission, State securities commission, municipality, or other political subdivision of a State, and may admit as a party any representative of interested consumers or security holders, or any other person whose participation in the proceedings may be in the public interest or for the protection of investors or consumers.

(Aug. 26, 1935, ch. 687, title I, § 19, 49 Stat. 832.)

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

CROSS REFERENCES

Hearings by Commission under—

Investment Advisers Act of 1940, see section 80b-12 of this title.

Investment Company Act of 1940, see section 80a-40 of this title.

Securities Act of 1933, see section 77u of this title. Securities Exchange Act of 1934, see section 78v of this title.

Trust Indenture Act of 1939, see section 77ttt of this title.

§ 79t. Rules, regulations, and orders

(a) Authority of Commission to make

The Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as it may deem necessary or appropriate to carry out the provisions of this chapter, including rules and regulations defining accounting, technical, and trade terms used in this chapter. Among other things, the Commission shall have authority, for the purposes of this chapter, to prescribe the form or forms in which information required in any statement, declaration, application, report, or other document filed with the Commission shall be set forth, the items or details to be shown in balance sheets, profit and loss statements, and surplus accounts, the manner in which the cost of all assets, whenever determinable, shall be shown in regard to such statements, declarations, applications, reports, and other documents filed with the Commission, or